UNITED NATIONS

E

Economic and Social Council

Distr.
GENERAL

E/C.12/1994/SR.37
30 November 1994

Original: ENGLISH

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Eleventh session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)*
OF THE 37th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 25 November 1994, at 10 a.m.

Chairperson: Mr. ALSTON

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* The summary record of the second part (closed) of the meeting appears as document E/C.12/1994/SR.37/Add.1.

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GE.94-70239 (E)

The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS (agenda item 4) (continued)

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT

Argentina (continued) (E/1990/5/Add.18; E/C.12/1994/WP.10)

1. At the invitation of the Chairperson, Mr. Paz and Miss Tosonotti (Argentina) took places at the Committee table.

2. The CHAIRPERSON invited the delegation of Argentina to continue its statement from the previous day.

3. Mr. PAZ (Argentina), thanking the Committee for the further opportunity to provide additional information, said that he was giving the Chairperson written material on article 9 of the Covenant in response to a question on social security raised by one of the members of the Committee; he was in possession of the relevant legislation, and he reiterated that the information contained in the second part of the report presented in writing on Tuesday, 22 November 1994, had also explained the social security system, provided statistics and answered questions to all the issues under article 9. On article 10 of the Covenant, he had with him the report submitted to the Committee on the Rights of the Child in response to questions on maternity and child laws. On issue No. 22 of the list of issues (E/C.12/1994/WP.10), he would provide the statistics requested on persons with HIV/AIDS, and in connection with issue No. 12, he had an enormous amount of statistics from official sources, including the National Mortgage Bank, the National Statistics and Census Office, a housing report concerning Buenos Aires, a report on the plan to find a solution to slum housing and establish land ownership and a compilation of programmes in the housing sector. With regard to article 12 of the Covenant, paragraphs 21 and 22 of the report that his Government had submitted to the Committee on the Rights of the Child would be of particular interest to the Committee.

4. The CHAIRPERSON thanked the delegation of Argentina and said in the next phase, the Committee would meet in private to draft its concluding observations, which would be made public at 1 p.m. on the final day of the session.

5. Mr. Paz and Miss Tosonotti (Argentina) withdrew.

United Kingdom (continued) (E/1990/7/Add.16; E/1989/5/Add.9; E/1986/4/Add.27 and 28; E/C.12/1994/WP.13)

6. At the invitation of the Chairperson, Mr. Steel, Mr. Astley, Mr. Phipps, Mr. Fung, Mr. Tescod, Mr. Cheng, Mr. Wong and Ms. Doherty (United Kingdom) took places at the Committee table.

7. Mrs. BONOAN-DANDAN pointed out that issue No. 31 of the list of issues (E/C.12/1994/WP.13) relating to Hong Kong had not been dealt with thoroughly; specifically, it was not clear how the Government planned to give effect to

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the right to adequate housing under Hong Kong law, which government measures addressed problems of inadequate housing and what the time-frame was within which the Government intended to eliminate the so-called "cage-homes". The Committee awaited the response of the delegation to issue No. 32; with regard to issue No. 33, she pointed out that customary Chinese law had not in fact been abolished in the New Territories and new forms of discrimination against women had arisen, and she asked the delegation to comment. Issues Nos. 37 and 38 also remained to be answered.

8. Mr. SIMMA began by asking the delegation whether it could make available to him the press release on a statement that he had made the previous day. He had said that not since 1987 had a government report been so widely disseminated, and he was curious to see if the statement had been properly reflected.

9. With regard to the right to education, he asked whether it was true that the children of the 50 Vietnamese boat people who had been released the week previously were not allowed to attend school.

10. As to the "cage-people", whom the Government referred to as the "bed-space problem", the Government had estimated that there were about 3,200 persons in that category, but he had obtained a restricted Government report of the Housing Authority which had found that of the 127,000 households living in inadequate housing, 7.4 per cent were bed-space people, which worked out to nearly 10,000 households; he asked the delegation to explain that discrepancy.

11. With regard to payments from the Comprehensive Social Security Assistance (CSSA) scheme, which was designed to bring the income of the poorest segments of the population of Hong Kong up to a level at which their basic and special needs could be met, the delegation had stated that a single person received a monthly CSSA payment of HK$ 2,440. However, he had an official document from Hong Kong on the CSSA scheme (SWD1/31/370/48, dated 1 April 1994), in which it was stated that the standard rate paid for a single elderly person was HK$ 1,670, and HK$ 1,115 for an able-bodied adult. Moreover, according to a report published in June, those rates, considered to be inadequate, would need to be raised to just under HK$ 2,000 for an able-bodied adult and HK$ 3,400 for a person requiring constant care in order to meet their basic needs. There again, he asked for an explanation of that apparent discrepancy.

12. Mr. TEXIER, speaking on evictions, asked what the procedure was in individual cases, such as for non-payment of rent or when an owner wished to recover a flat and, more importantly, in group cases, for example following a decision to renovate a neighbourhood or build a highway.

13. He had been informed by a non-governmental organization that a draft proposal had been drawn up for a Hong Kong housing rights ordinance which reaffirmed the right to housing as a human right and provided definitions of adequate housing that on many points was similar to the Committee's own fourth general recommendation. If that was the case, it would be an important step, because under the common law system, the Covenant was not incorporated into domestic law, and that project might be a way to ensure the right to housing

in terms consistent with the Covenant. He asked whether there was any debate on that subject in Hong Kong, whether it was planned to adopt such a document and whether such reforms could be expected in the future.

14. Mr. FUNG (United Kingdom) replying to Mrs. Bonoan-Dandan's question about adequate housing, said that as at the third quarter of 1993, 206,000 households and 600,000 persons were inadequately housed. The Government considered that all persons living in squatter areas, in temporary housing or cottage areas, in non-self-contained flats either in the public or the private sector, and in rooftop structures, as well as persons sharing accommodation in the private sector were in inadequate housing. Of those persons and households, it was estimated that about 86,700 households or 242,900 individuals would not qualify for public housing.

15. As to Mrs. Bonoan-Dandan's question on the time-frame to ensure that there were no more "cage-homes", the Government's plan was to reduce the numbers by legislation and administrative means. In June 1993 the Bed-Space Apartments Bill had been introduced to regulate building and fire safety through a licensing scheme. Once that legislation was implemented bed-space apartment dwellers would be living in less crowded conditions. That of course would not eradicate the problem, but the Government had already rehoused 600 such lodgers and those efforts were continuing. The target was to rehouse 50 per cent of the remaining bed-space lodgers. The Social Welfare Department would ascertain the lodgers' eligibility for compassionate housing and admission to welfare institutions. Lodgers falling outside the scope of the Social Welfare Department scheme could apply for admission to single person's hostels of the City and New Territories Administration.

16. Replying to issue No. 32 relating to the Metroplan, he explained that the plan was a framework embracing both public and private sector agencies that would enable them to formulate detailed plans and development programmes to restructure Hong Kong and to improve urban living conditions. Moreover, a statutory body, the Land Development Corporation, had been set up by the Government to undertake urban renewal schemes. Private developers could never compulsorily acquire land; only the Government could do so when private land was required for a public purpose, and the relevant legislation contained rules for compensation. The market value for land was paid and residential property owners were given a home purchase grant and a removal allowance. Shop premises acquired under the compensation acquisition scheme were compensated at market value, with additional compensation for commercial losses.

17. As far as private redevelopment was concerned, residential property owners were compensated in respect of the value of their property, which was a matter for negotiation between the developer and the owner. There was a scheme of protection under the Landlord and Tenant Consolidation Ordinance whereby tenants of domestic premises were given security of tenure. Unless a tenant voluntarily vacated his premises the landlord must obtain a possession order from the court prior to making the tenant leave. Under the Ordinance it was a criminal offence to harass a tenant with the intention of making him give up premises.

18. Replying to Mrs. Bonoan-Dandan about existing discrimination against women, he said that, the Hong Kong Government had eradicated traditional Chinese customary law forms of discrimination by the passage of the New Territories Land Exemption Ordinance in June 1994. Under the previous system in the New Territories, land in individual ownership had been inherited according to the Chinese customary law of succession which left widows and daughters to be maintained by a male successor. That law of succession no longer applied to the New Territories, and the right of women to succeed to land and property there had now been brought into line with their rights of succession in the urban areas of Hong Kong.

19. Replying to issue No. 37 about tertiary education enrolment in Hong Kong, he said that following recent very rapid expansion, there were now seven tertiary education institutions which compared favourably in quality with the best in the world. There had been an increase in the provision of first-year first-degree places from 8,575 in 1990-1991 to 14,500 places in 1994-1995. In percentage terms, the 1990-1991 figure represented 10.2 per cent of the age-group 17 to 20 whereas the latest figure represented 18.1 per cent. The increased number of places would allow for more than 70 per cent of current year qualified school matriculation graduates to be admitted to tertiary educational establishments.

20. Reverting to issue No. 31, he described a series of ordinances in Hong Kong providing a legislative framework on housing.

21. Mrs. BONOAN-DANDAN suggested that the issue might best be discussed in conjunction with the matter raised by Mr. Texier.

22. Mr. FUNG (United Kingdom) turning to the questions put by Mr. Simma, said that the press release of the Hong Kong Government could be made available. It was based on the delegation's minute of what had been said by Mr. Simma, Mr. Texier and other members of the Committee, and could be checked with the record.

23. As to whether Vietnamese boat children were allowed or not to attend Hong Kong's schools, at present voluntary agencies provided education for Vietnamese children in detention camps. Hong Kong did not itself give education to such children. Other illegal immigrant children, those from China, were repatriated within a very short time after being detected and the question of education did not arise for them.

24. Mr. SIMMA said that he had understood that a number of children released from detention camps did not fall within the purview of the voluntary agencies. If that were the case, were such children granted access to education?

25. Mr. FUNG (United Kingdom) said that the report referred to by Mr. Simma arose from the release by the Hong Kong Government of 150 Vietnamese boat persons, including adults and children, from closed camps. Those persons were determined, following the screening process, to be non-refugees and were therefore eligible for repatriation to Viet Nam. Unfortunately Viet Nam had refused to take them back, but as they were deemed to be non-refugees they were not eligible for resettlement in a third country. The Government

considered that it would not be right to detain them further in closed camps and they had been rehoused in an open camp. The Government was trying to see whether provision could be made to accommodate them and hoped for a speedy solution. Meanwhile Mr. Simma was correct in supposing that there was no provision for educating the children in open camps. He was unable to answer the related question as to whether those children were prohibited from attending Hong Kong schools, but would provide a written response.

26. On Mr. Simma's question on bed-space apartments, his delegation considered that the figures that it had given previously were correct. The figure of 3,200 current bed-space apartment dwellers was based on an actual survey carried out in all the known bed-space apartments throughout Hong Kong. A very detailed breakdown had resulted in the total figure of 3,200 and it was considered that the degree of error was not more than 5 per cent either way. The estimate of figures based on the report to which Mr. Simma had referred was a figure arrived at prior to that survey.

27. Turning to Mr. Simma's question as to whether the CSSA payments to elderly persons were adequate, he said that Mr. Simma was correct in quoting a figure of HK$ 1,670 paid to elderly persons and HK$ 1,115 to single able-bodied persons, but those were basic cash payments, and a wide range of special grants was available in addition, including a rent allowance of a maximum HK$ 2,858 per month plus a monthly allowance of HK$ 62 to meet telephone charges, and fares to hospitals and clinics including the fares of escorts. Expenses for spectacles, dental and medical treatment were also payable. Moreover, an annual long-term allowance of $3,705 was available to meet the cost of replacing household effects. For individuals with dependents the list also included school fees, textbooks, public expenses, etc. The basic figure mentioned by Mr. Simma was therefore by no means comprehensive.

28. Replying to Mr. Texier's question on evictions, he said that in the private sector the rights of the tenant were protected by the Landlord and Tenant Consolidation Ordinance which gave security of tenure to the tenant and prohibited any forced eviction of tenants without a court order. The Ordinance also made harassing of tenants by landlords a criminal offence. Where there was a negotiated recovery of private property by a landlord, the tenant was entitled to receive compensation laid down by statute, which was 1.7 times the rateable value of the premises. That would allow a dispossessed tenant to rent similar accommodation for about eight months. Disputes over compensation between a private developer and the existing occupier would be referred to the Lands Tribunal, the presiding officer of which was of district judge rank. As far as collective evictions were concerned, the Government provided for suitable rehousing or cash compensation under the land development compensation scheme.

29. Replying to Mr. Texier's second question, he said that the draft proposal on the Hong Kong housing rights ordinance was the product of a private-sector group of lobbyists. It had been formally submitted to the Government to gauge its reaction. There was no proposal by the Government to stand in the way of the bill if it came before the Legislative Council.

30. Mrs. BONOAN-DANDAN expressed dissatisfaction with the answers given about cage homes in particular. If there were only 3,200 such homes, Hong Kong

could easily rehouse their occupants. She had asked to be informed of the time-frame for rehousing tenants of cage homes but had not received a reply. She had visited such dwellings, where she had been unable to stretch out and where her head had hit the ceiling. The tenants' entire belongings including their food had to be contained in a tiny space, where she had been appalled to see rats and cockroaches. Her concern was for the health of the many old people living in such dwellings, some of whom had lived there for more than 30 years. She could therefore not agree that Hong Kong was respecting human rights as far as housing was concerned.

31. Mr. SIMMA said that most of the press release issued by the Hong Kong Government in respect of the Committee's discussions was acceptable, but the title ("Hong Kong praised for promoting Covenant on Economic, Social and Cultural Rights") and the first paragraph were a little misleading, since when he had praised the Government he had been referring to the promotion of brochures, not to the situation with regard to the promotion of the rights set forth in the Covenant as such.

32. Mr. FUNG (United Kingdom) said that the Hong Kong Government did not regard the situation of persons living in cage-homes as satisfactory. Despite the pressure on public housing, especially from squatters and roof-top dwellers, the Government was trying to do its best. Persons on the long list of applicants for public housing were treated in accordance with certain priorities and particular needs. The queue, which was longer in urban than in rural areas, could be jumped on compassionate grounds. It was anticipated that 70 per cent of the persons awaiting public accommodation would be rehoused by 1997-1998. There was no question of giving priority to any one category of applicant over another.

33. He thanked Mr. Simma for clarifying his position with regard to the press release. Although the Hong Kong Government had extensively publicized the rights set forth in the Covenant, it was certainly not restricting its efforts to that alone.

34. Mr. TEXIER, commenting on the Hong Kong Government's press release, explained that when he had stated that the Government had done more than other Governments, he had been referring to its dissemination of the Covenant, not to its implementation of the Covenant as a whole. All in all, the dialogue with Hong Kong, including both the Government and non-governmental organizations, had been exemplary.

35. Mr. MARCHAN ROMERO strongly associated himself with what Mrs. Bonoan-Dandan had said regarding housing conditions in Hong Kong. Housing was a clearly established human right, not a matter of compassion. He also pointed out that no reply had been given to Mrs. Bonoan-Dandan's question concerning the Government's plans to meet health needs.

36. Mrs. JIMENEZ BUTRAGUEÑO expressed concern regarding the possibility that the status of women might worsen after 1997.

37. Mr. FUNG (United Kingdom) thanked Mr. Texier for his comment on the press release, which related to what the Government had done to promote public understanding of the Covenant. He would provide some written information on

that point. In reply to Mr. Marchan Romero, he pointed out that he had never stated that the ground for the provision of housing was compassion. There was an enormous queue for public housing, and priority was given not only to persons living in bed-space apartments, but also to squatters, roof-top dwellers and other categories. If there were particular cases meriting earlier attention, they could be investigated on exceptional grounds, including compassionate grounds.

38. In health matters, the Hong Kong Government followed WHO's primary health care approach, under which a wide range of services were operated. They included promotional, preventive and curative services embracing health education, family planning, maternal and child health, immunization and disease control, delivered through a network of clinics and health centres. Primary health care was provided in the form of consultation and dispensing services at 59 general outpatient clinics. Other health care services covered child assessment, the immunization of schoolchildren, and occupational health. In 1992 there had been approximately 4.8 million attendances at public general outpatient clinics, of which there was approximately one for every 100,000 inhabitants, with usually three doctors per clinic. The situation in that regard was closely monitored to ensure that the needs of the population were met.

39. A report by a working party on primary health care had been endorsed by the Government in 1991. Of the 102 recommendations made in it, 99 had been implemented, including, for instance, the improvement of all general outpatient clinics, the establishment of clinics for women and for the elderly, a pilot scheme for district health systems and a student health service. The implications of the remaining three recommendations, which included the restructuring of fees and charges and the establishment of a primary health care authority, were being studied.

40. There was also a family health service catering for women of child-bearing age and children under five years of age, which provided a comprehensive range of preventive and curative health care services through 47 maternal and child health centres. Also included was a comprehensive observation service for the early detection of developmental abnormalities in children under five. Children suspected of suffering from abnormalities were referred to the relevant specialist clinics and child assessment centres. For children aged between five and 11 years, comprehensive physical, psychological and social assessments were provided, as well as treatment, parental counselling and referral for appropriate placement in the various centres and institutions operated by the Government and voluntary agencies. Currently, five multidisciplinary child assessment centres were in operation.

41. Mr. WIMER ZAMBRANO noted that the reply to the comments made by Mrs. Bonoan-Dandan and Mr. Marchan Romero, had referred only to the current situation and not to any specific plan for the future.

42. Mr. FUNG (United Kingdom), referring to the comment made by Mrs. Jimenez Butragueño, recalled that he had already informed the Committee of two bills currently being processed, including the Sex Discrimination Bill promoted by the Government, which stood a reasonable chance of being enacted. There was no reason to suppose that, if the bill was enacted, it would not

survive the resumption of Chinese sovereignty over Hong Kong. He was not in a position to indicate what would be done after 1997 to ensure equal opportunities for women, but the legislation in place before 1997 would probably survive the transition period.

43. Turning to Mr. Wimer Zambrano's comment, he recalled that he had already informed the Committee of the Government's intentions in relations to bed-space apartment dwellers and of the plan to put 50 per cent of the remaining pool of 3,200 persons into public housing; the other 50 per cent would be eligible to apply for admission to hostels.

44. As far as the more general question of public housing was concerned, at the end of September 1994 there had been over 150,000 applicants on the waiting list, excluding 10,200 applications from public housing tenants and over 14,000 households living in squatter or temporary housing areas. Assuming that there was a 60 per cent eligibility rate for public housing, the effective demand would be approximately 75,000 units. It was anticipated that 70 per cent of the applicants could be successfully rehoused before 1998. In addition, there was a long-term housing strategy providing a framework for future plans. It was hoped that by the end of the century all squatters would have been cleared and old public housing upgraded and modernized. Under revised financial arrangements, a commitment of US$ 1.3 billion had been made to support the public housing programme, providing the housing authority had the necessary resources to implement the long-term strategy effectively. The Government was not complacent and was taking steps to deal with the problem in the long and medium terms as well as in the short term.

45. Mr. GRISSA noted that the Committee had spent a considerable amount of time discussing the housing problem in Hong Kong. It was strange that such a rich territory could spend US$ 15 billion on a new airport while an old lady still had to live in a cage. He also noted that a human rights commission could not be established because it would not survive beyond 1997, that all squatters were expected to be rehoused by the end of the century, and that in some areas it was known what would happen after 1997 and in others not.

46. Mr. FUNG (United Kingdom) thanked members for the time they had spent on the situation in Hong Kong, whose Government appreciated their concerns and had noted the points made. It took very seriously the need to adopt, in social programmes, a balanced approach that would obtain broad public support, as well as the need to formulate and implement policies that would survive into the long term. However, it had no crystal ball to inform it of which policies would survive after 1997.

47. The CHAIRPERSON thanked the delegation of the United Kingdom, particularly the representatives from Hong Kong. The discussions had been robust and very constructive. The number of questions asked, the amount of research done, and the detailed and careful replies given were evidence of the success of the process in which the Committee was engaged. The Committee's concluding observations would be released on 9 December 1994.

48. Mr. Steel, Mr. Astley, Mr. Phipps, Mr. Fung, Mr. Tescod, Mr. Cheng, Mr. Wong, and Ms. Doherty (United Kingdom) withdrew.

ORGANIZATION OF WORK (agenda item 2) (continued)

49. Mr. WIMER ZAMBRANO said that he disagreed with the working methods of the Committee. Originally, the final conclusions had been more synthetic, which he supported. The text was usually prepared by the secretariat, which reflected the discussion in the Committee with objectivity and detachment. The last time, however, the country rapporteur had prepared another text, which differed from that of the secretariat, causing considerable confusion. He therefore asked members of the Committee not to duplicate the work of the secretariat. If the Committee did not reach conclusions that were clear to everyone, it would lose credibility. He had not participated in preparing the report on Argentina because he had objected to the way in which the conclusions were being reached. In his view, the Committee must use the version prepared by the secretariat.

50. The CHAIRPERSON said that his understanding of the procedure was that the Committee first held a general discussion in closed session, identifying the main points that it wished to see reflected in the draft. The secretariat then produced a draft in consultation with the country rapporteur and on the basis of the general preliminary discussion. Country rapporteurs were free to propose other concluding observations if they disagreed with the ones proposed by the secretariat. In such cases, it was not the draft produced by the secretariat that came before the Committee, but the draft proposed by the country rapporteur.

51. Mr. TEXIER agreed. The secretariat should draft its conclusions in consultation with the country rapporteur after discussions with the Committee. The secretariat's draft was merely meant to assist the Committee. The members of the Committee must then decide whether they wanted to ask a given State to produce another report on certain issues or an entire second report. The drafting of the final conclusions was a matter for the Committee.

52. Concerning the quality of the conclusions, the Committee should state in the report if it found that a State had not complied with its obligations under the Covenant, but it could not be too synthetic, because that could lead to exaggerated condemnations or praise.

53. Mr. ALVAREZ VITA said that at the eighth meeting of the current session, he had made a statement that had been incorrectly reflected in the summary record. At the twenty-first meeting of the current session, on 17 May 1994, he had clearly stated that he had not made any attack whatsoever against the Roman Catholic Church, and the Chairperson had agreed that no such attack had taken place. To his great surprise, that statement had also been incorrectly reflected in the record of the twenty-first meeting. He insisted that a correction be made and that his protest be reflected in the summary record.

54. The CHAIRPERSON said that the secretary had informed him that the corrigendum to the summary record of 17 May 1994 (E/C.12/1994/SR.21) had been drafted and sent to the editing section.

The public part of the meeting rose at 12.20 p.m.